

Minutes - Woodbury County Board of Adjustment Meeting June 6, 2016

The meeting convened on the 6th of June, 2016 at 6:00 PM in the Board of Supervisors Meeting Room in the Court House, Sioux City, Iowa. Present were the following Board members: Robert Brouillette, JoAnn Sadler, Katie Colling, and Dwight Rorholm. Staff members John Pylelo and Peggy Napier were also in attendance. Present from the public were Elisa Zappacosh, Kurt Ivener, Tom Kimmel, Mark Gorton, Mason Tieshoetter, Jeff Black, Joe McGuire, and Clint Allen.

The first agenda item was Any Citizen Wishing to be Heard on Non-Agenda Items.
No citizen made comment pertaining to this agenda item.

The next agenda item was approval of minutes of May 2, 2016 meeting.
Mrs. Colling made a motion to approve the minutes. Mrs. Sadler seconded the motion. Motion carried 4-0.

Staff Comments to Board Of Adjustment Members:

The next four agenda items (Items 3, 4, 5 and 6) are public hearings followed by consideration of conditional use permit applications. The applied for uses include two temporary earthen borrow areas, a permanent gravel pit with material storage and a temporary concrete batch plant.

Each use is approved as a conditionally permitted use in only selected zoning districts. In each of the four applications under consideration the location's land use summary table allows the use as a conditionally permitted use. For each of the applications a copy of the application and supporting documentation has been provided.

The conditional use permitting process includes a public hearing held by the Woodbury County Board of Adjustment. The ordinances further require the Zoning Commission review the Conditional Use Permit application and report its findings with recommendation to the Board of Adjustment. By ordinance the Commission's review is limited to a determination if each of the below standards found within ordinance subsection 2.02-9.F will be met. Please note that within all four applications the applicant also has responded to each of the standards.

At the respective public hearing for each application a letter will be presented by staff from the Zoning Commission's Chairman. In each case the letter will report the Commission's findings. In some cases a recommendation will be made to consider placing certain conditions upon permit issuance.

The next agenda item is a Public Hearing and Consideration of Conditional Use Permit Application from property owners Kent Ivener and Kimmel Family Farms, LLC and applicant JB Holland Construction, Inc. in Section 7 of Liberty Township (North Site). Re: Resource Extraction Borrow Pit for Earthen Materials.

The Conditional Use Permit application is for the staging and operation of temporary resource extraction – borrow pit within a 27 acre portion of two congruent rural Woodbury County, Iowa parcels. The application requests the extraction of up to 220,000 cubic yards of earthen material from the 27 acre site for transport for transport solely to offsite MidAmerican Energy ash impoundment construction projects. Hauling season will be September 2016 – September 2017. The impacted area will be returned to farmland and reseeded. Decommissioning of the site is anticipated to be in November of 2017.

The two parcels are located within a portion of the NE ¼ of the SE ¼ and the NW ¼ of the SE ¼ of Section 30, Liberty Township. The parcels abut the west side of Port Neal Road and the east side of Port Neal Circle right-of-way approximately 0.25 miles south of the intersection of Port Neal Road with Port Neal Circle. The parcels are known as GIS parcels #874730400001 and #874730400004. The project will be serviced by a newly installed driveway to be addressed 2630 Port Neal Road, Sergeant Bluff.

This driveway entrance is proposed along the west side of Port Neal Road with a haul route north from the drive along hard surfaced Port Neal Road. At 260th St. the haul route will then traverse west within privately owned property for a total haul route distance of 1.7 miles.

The use as a borrow area is described on page 37 of the zoning ordinance's *Land Use Summary Table* within the category and sub-categories of - *Resource Extraction: Borrow Pits for earth materials*

This use is approved as a conditionally permitted use in selected zoning districts. The use as a borrow pit for earth materials is only allowed as a conditionally permitted use (CUP) within the AP and GI (General Industrial) zoning districts. The table further prohibits the requested conditional use in all the county's other zoning districts. As the parcels are zoned GI the requested use can be conditionally approved.

The project location is not within any special flood hazard area. No known archeological, endangered species or environmental issues have been raised.

The location is in proximity to the Missouri River and has fluctuating ground water levels with a predominately high water table. Wetland or ponding should it occur is not an issue at this location.

The sixteen (16) property owners within 500' of the parent parcel have been advised by letter on the public hearing. Other than the city of Sioux City no other neighborhood comments have been received.

For you review find attached:

1. Location mapping.
2. CUP Application providing additional project specifics and Section 2.09C responses.
3. Section 7 Borrow Aerials.
4. Section 7 Borrow Aerial with Flood Plain Layer.
5. Erosion Control Implementation Plan.
6. Removal and Temporary Measures Plan.
7. Haul Route Mapping
8. University of Iowa Letter dated February 3, 2016 verifying status of no reported archeological sites within one mile of the project.

Your Board is tasked with holding the required public hearing; then to deliberate upon the approval of a Conditional Use Permit for property owners Kent Ivener and Kimmel Family Farms, LLC and applicant JB Holland Construction, Inc. in Section 30 of Liberty Township (South Site). Re: Resource Extraction Borrow Pit for Earthen Materials. You are then to vote either upon permit approval or denial. For any approved permit the ordinances allow placement of those conditions which your Board feels:

- 1. Furthers the goals of Woodbury County's General Development Plan;**
- 2. Provides that the standards within Ordinance section 2.02-9.F are met; or**
- 3. Protects the health, safety and welfare of Woodbury County citizens.**

Comments:

Mr. Rorholm did not understand how this parcel could be a borrow pit without creating a hole.

Mason Tieshoetter for J.B. Holland explained a hole would not be dug, but several layers of dirt would be removed over a large portion of the parcel until they reach a certain amount of ground water. The surface water will drain south of the borrow. Cuts will start shallow and go deeper farther north. The land will be returned to farmland

when they are finished. The ground slopes up from the water line and it will drain into the oxbow.

Email comment from County Engineer Mark Nahra:

Item 3: The north borrow site for JB Holland in Section 7, Liberty Township has had its driveway evaluated and approved for the proposed use. If constructed as shown on the contour map submitted to my office, there should be no ponding on the area to create issues for the airport. It will make a long, gradual slope draining from north to south. I have no objections to the site. It should be required of the contractor to prevent dirt from being drug onto Port Neal Road and broom or scrape the pavement should any dirt be drug onto the highway.

Mr. Dolf Everson noted the land will actually be better farmland when they are done.

Mr. Brouillette asked if there would be any recommendations for road maintenance.

Mr. Tieshoetter said they have a process built in for road maintenance and fugitive dust control. He also said the land will be mulched, reseeded and brought back to farmland. They have a water source from MidAmerica.

Mr. Pylelo reminded the Board there will be a lull in the year when the borrow area will not be worked. The issues will not exist during this time.

Mrs. Colling was concerned hunters, campers and the like will not be watching out for borrow traffic when they are looking for their campsites, hunting locations, and directions to their destinations. She wanted to be assured signage would be there from the appropriate sources for safety purposes.

Mr. Pylelo said the applicant must obtain all pertinent permits for the job.

Mr. Rorholm asked about the expiration date. Was it November 2017 or should there be a cushion? Maybe they should have an extension such as March 2018.

Mr. Tieshoetter said because of EPA requirements there could be times when he would be working both projects at the same time.

Mrs. Sadler made a motion to close the public meeting. Mr. Rorholm seconded the motion; motion carried 4-1.

Discussion:

Conditions decided by the board;

1. Extension until March of 2018
2. Keep roadways clean of borrow debris
3. Adher to SWIPP fugitive dust requirements

4. Applicant must obtain all federal, state, county and local permit(s)
5. County Engineer must provide traffic control plan
6. Allow no permanent ponding at any time

Mr. Rorholm made a motion to approve borrow with all above conditions; Mrs. Colling seconded the motion; motion carried 4-0.

The next agenda was a Public Hearing and Consideration of Conditional Use Permit Application from property owners Kent Ivener and Kimmel Family Farms, LLC and applicant JB Holland Construction, Inc. in Section 30 of Liberty Township (South Site). Re: Resource Extraction Borrow Pit for Earthen Materials.

The Conditional Use Permit application is for the staging and operation of temporary resource extraction – borrow pit within a 27 acre portion of two congruent rural Woodbury County, Iowa parcels. The application requests the extraction of up to 220,000 cubic yards of earthen material from the 27 acre site for transport solely to offsite MidAmerican Energy ash impoundment construction projects. Hauling season will be September 2016 – September 2017. The impacted area will be returned to farmland and reseeded. Decommissioning of the site is anticipated to be in November of 2017.

The two parcels are located within a portion of the NE ¼ of the SE ¼ and the NW ¼ of the SE ¼ of Section 30, Liberty Township. The parcels abut the west side of Port Neal Road and the east side of Port Neal Circle right-of-way approximately 0.25 mile south of the intersection of Port Neal Road with Port Neal Circle. The parcels are known as GIS parcels #874730400001 and #874730400004. The project will be serviced by a newly installed driveway to be addressed 2630 Port Neal Road, Sergeant Bluff.

This driveway entrance is proposed along the west side of Port Neal Road with a haul route north from the drive along hard surfaced Port Neal Road. At 260th St. the haul route will then traverse west within privately owned property for a total haul route distance of 1.7 miles.

The use as a borrow area is described on page 37 of the zoning ordinance's *Land Use Summary Table* within the category and sub-categories of - *Resource Extraction: Borrow Pits for earth materials*

This use is approved as a conditionally permitted use in selected zoning districts. The use as a borrow pit for earth materials is only allowed as a conditionally permitted use (CUP) within the AP and GI (General Industrial) zoning districts. The table further

prohibits the requested conditional use in all the county's other zoning districts. As the parcels are zoned GI the requested use can be conditionally approved.

The project location is not within any special flood hazard area. No known archeological, endangered species or environmental issues have been raised.

The location is in proximity to the Missouri River and has fluctuating ground water levels with a predominately high water table. Wetland or ponding should it occur is not an issue at this location.

The sixteen (16) property owners within 500' of the parent parcel have been advised by letter on the public hearing. Other than the city of Sioux City no other neighborhood comments have been received.

For you review find attached:

1. Location mapping.
2. CUP Application providing additional project specifics and Section 2.09C responses.
3. Section 30 Borrow Aerials.
4. Section 30 Borrow Aerial with Flood Plain Layer.
5. Erosion Control Implementation Plan.
6. Removal and Temporary Measures Plan.
7. Haul Route Mapping
8. University of Iowa Letter dated February 3, 2016 verifying status of no reported archeological sites within one mile of the project.

Your Board is tasked with holding the required public hearing; then to deliberate upon the approval of a Conditional Use Permit for property owners Kent Ivener and Kimmel Family Farms, LLC and applicant JB Holland Construction, Inc. in Section 30 of Liberty Township (South Site). Re: Resource Extraction Borrow Pit for Earthen Materials. You are then to vote either upon permit approval or denial. For any approved permit the ordinances allow placement of those conditions which your Board feels:

- 1. Furthers the goals of Woodbury County's General Development Plan;**
- 2. Provides that the standards within Ordinance section 2.02-9.F are met; or**
- 3. Protects the health, safety and welfare of Woodbury County citizens.**

Comments:

Mr. Pylelo noted the grade of the South site is very similar to the North site.

Email from County Engineer:

Item 4: The south borrow site for JB Holland in Section 30 of Liberty Township has had a driveway site evaluated and approved for the proposed use. It will be constructed by the contractor and is to be removed upon completion of the conditional use. I have no objections to the site. It should be required of the contractor to prevent dirt from being drug onto Port Neal Road and broom or scrape the pavement should any dirt be drug onto the highway.

Mr. Kent Ivener spoke about a drainage issue between him and MidAmerica. They are working toward drainage which will include a temporary pond. Their finish date is 6 months.

Mr. Pylelo asked the language in the first paragraph on page 2 be deleted. It refers to a permanent pond being created. It is the board's current understanding the drainage issue returns the land back to farm land.

Katie Colling made a motion to close the public hearing. JoAnn Sadler seconded the motion; motion carried 4-0.

Discussion:

Conditions decided by the board;

1. Extension until March 31, 2018
2. **Item 5:** The county road department supports this application. We want to see dust control applied as needed during haul operations out of the new gravel pit in front of houses and at intersections on gravel road areas used as haul roads. The proposed language was discussed in a prior email to our department.
3. Remove driveway after decommissioning as recommended by County Engineer
4. Remove ponding statement from page 2, first paragraph
5. Keep roadways clean of borrow debris
6. Adher to SWIPP fugitive dust requirements
7. Applicant must obtain all federal, state, county and local permit(s)
8. County Engineer must provide traffic control plan

Mr. Pylelo read comments from Conservation Administrator Rick Schneider into record.

Mr. Rorholm made a motion to approve the staging and operation of a temporary

resource extraction/borrow pit subject to the list of conditions above. Mrs. Colling seconded the motion; motion carried 4-0.

The next agenda item is a Public Hearing and Consideration of Conditional Use Permit Application from property owners Eugene F. Wright Survivors Revocable Trust and the Arlene A. Wright Survivors Revocable trust and applicant OMG Midwest, Inc. d/b/a Hallett Materials Extraction in “Section 28 of Kedron Township. Re: Resource Extraction for a Gravel Quarry and Storage.

The Conditional Use Permit application is for the long term staging and operation of Resource Extraction for a Sand and Gravel Quarry within a portion of 7 congruent rural Woodbury County, Iowa parcels totaling 175+ acres . The application further requests the extraction and storage of sand and gravel and for the transport to offsite constructions project(s). The impacted area will be reclaimed with an end use as a wildlife area and pond. A decommissioning date for the site is unknown.

Phase one of the project provides for the onsite relocation of 233,701 cubic yards of overburden to obtain an estimated 1,373,930 tons of ore reserves. Phase two of the project provides for the onsite relocation of 870,552 cubic yards of overburden to obtain an estimated 3,362,040 tons of ore reserves.

The seven parcels are located within a portion of the SE ¼ plus of Section 28 of Kedron Township. The parcels lie east of the Little Sioux River and West of Mason Avenue north of Anthon. The impacted parcels are known as GIS parcels #884328200008; 884328300003; 884328300004; 884328400001; 884328400002; 884328400003 and 884328400004. The project will be serviced by a newly installed driveway from the west side of Mason Avenue.

The use as a Gravel Quarry is described on page 37 of the zoning ordinance’s *Land Use Summary Table* within the category and sub-categories of - *Resource Extraction: Gravel and Stone Quarries*.

This use is approved as a conditionally permitted use in selected zoning districts. The use as *Gravel and Stone Quarries* is only allowed as a conditionally permitted use (CUP) within the AP and GI (General Industrial) zoning district. As the parcels are zoned AP the requested use is allowed to be conditionally approved.

The use for sand and gravel storage is described on page 38 of the zoning ordinance’s *Land Use Summary Table* within the category and sub-categories of – *Warehousing and Freight handling: Sand and Gravel Storage*. This storage of sand and gravel is a conditionally permitted use in the AP zoning district. As the parcels are zoned AP the requested use is allowed to be conditionally approved.

The County Engineer has offered oral comment requesting a condition be placed upon permit approval. The engineer recommends OMG Midwest, Inc. d/b/a Hallett Materials be financially responsible for the cost of dust control application along any graveled county right-of way used as a haul route for material mined under the permit. Treatment locations and scheduling to be determined by the county's Secondary Roads Department.

The nine (9) property owners within 500' of the parent parcel have been advised by letter on the public hearing. No neighborhood comments have been received.

For you review find attached:

1. Location mapping.
2. CUP Application providing additional project specifics and Section 2.09C responses.
3. Site Plan Aerial – Mining, Drainage and Structure
4. Lease Agreement, Lease Assignment, etc. (redacted)
5. Excavation Plan Drawings
6. Reclamation Drawing A-A

Your Board is tasked with holding the required public hearing; then to deliberate upon the approval of a Conditional Use Permit for property owners Eugene E. Wright Survivors Revocable Trust and the Arlene A. Wright Survivors Revocable Trust and applicant OMG Midwest, Inc. d/b/a Hallett Materials Extraction in Section 28 of Kedron Township. Re: Resource Extraction for a Gravel Quarry and Storage. You are then to vote either upon permit approval or denial. For any approved permit the ordinances allow placement of those conditions which your Board feels:

- 1. Furthers the goals of Woodbury County's General Development Plan;**
- 2. Provides that the standards within Ordinance section 2.02-9.F are met; or**
- 3. Protects the health, safety and welfare of Woodbury County citizens.**

Comments:

This will be a permanent gravel pit.

The ZC chairman David McWilliam's letter recommending approval was given to BA Chairman Robert Brouillette.

The first portion of the gravel pit will go to the Hwy 20 project.

(comment from R. Schneider)

OMG Midwest will adhere to the County Engineer's request regarding fugitive dust.

Mr. Jack Black addressed the board to tell them he is the only resident near the proposed gravel pit. According to Black dust is already an issue.

Mr. Rorholm said the burden to maintain the road should be on Mr. Mark Gorton from the county during the project. The county will be reimbursed by the DOT.

Jaimee Addy from Hallett Materials Extraction told Mr. Black he was ready to work with him on the gravel issue. He said he has had positive experiences working with the county on road issues. It was suggested Mr. Addy meet with Conservation Administrator Rick Schneider to work along with the DOT.

Mr. Black said the maintenance on the road in the last couple of years has not been good. Mr. Addy expects the road conditions to improve. Pylelo stated the applicant is responsible for dust control during the project. If they have any problem they should meet with County Engineer Nahra. Money would be reimbursed to Nahara from OMG Midwest.

The project is expected to be done in phases through 2018.

Work will temporarily begin at 4 AM.

At this point, Katie Colling made a motion to close the public hearing. JoAnn Sadler seconded the motion; motion carried 4-0.

Discussion:

Mr. Rorholm made a motion to approve the gravel pit subject to:

- 1) Applicant must obtain all federal, state, county and local permit(s)**
- 2) Dust must be controlled according to Mr. Nahra's comments to the board.**

Mrs. Colling seconded the motion; motion carried 4-0.

Mr. Addy said he has heard nothing from Bill Cappuccio's office and they have had no permitting from the DNA.

He has been having problems with his computer printing out the contour maps. He continues to work on it.

The next agenda item is a Public Hearing and Consideration of Conditional Use Permit Application from Property Owner Herman Rock Jr. and Applicant Flynn Co. Inc Re: The Staging and Operation of heavy construction services – Concrete mixing (temporary); On GIS Parcel #894333200006.

The Conditional Use Permit application is for the staging and operation of temporary heavy construction services - concrete mixing temporary (a concrete batch plant) within a 4 acre portion of a 29 acre parcel. Production is intended to provide 42,000 cubic yards of concrete for the Hwy 20 corridor expansion project. The batch plant equipment would be active for approximately 2 months. The location will serve as a material storage area for the balance of the project. The impacted area will be returned to original condition and seeded with a cover crop. It is assumed the landowner would then return the site to agricultural production. It is anticipated decommissioning of the site will be within 6 months of permit issuance.

The parcel is located within a portion of the SE ¼ of the NE ¼ of Section 33, Rutland Township. The parcel abuts the west side of Lee Avenue approximately 330 feet north of the intersection of Lee Avenue and Hwy 20. The parcel is 7 miles east of Merville and is known as GIS parcel #894333200006.

The use for temporary concrete mixing is described on page 37 of the zoning ordinance's *Land Use Summary Table* within the category and sub-categories of – Manufacturing and Processing–Temporary Heavy Construction Services-Concrete Mixing (temporary).

This use is approved as a conditionally permitted use in selected zoning districts. The use temporary concrete mixing is allowed as a conditionally permitted use (CUP) within the AP zoning district. As the parcel is zoned AP the requested use is allowed to be conditionally approved.

The five (5) property owners within 500' of the parent parcel have been advised by letter on the public hearing. No neighborhood comments have been received.

For your review find attached:

1. Location Mapping
2. Conditional Use Application
3. Site Map
4. Beacon Parcel Aerial
5. Parcel Information
6. Pictometry Parcel Aerial
7. Site Plan
8. Approved Haul Routes and Material Acquisition Locations
9. Project Information IOWADOT Drawings
10. Plant Site Agreement (redacted)
11. NPDES GP #3
12. IDNR Air emissions Permit

13. IDNR Nonrecurring Use of Water Permit
14. Flynn Company SWPPP
15. Excerpt (Page 37) of Woodbury County Land Use Summary Table

Your Board is tasked with holding the required public hearing; then to deliberate upon the approval of a Conditional Use Permit for property owners Herman Rock Jr. and Applicant Flynn Co. Inc. Re: The Staging and Operation of heavy construction services - Concrete mixing (temporary); On GIS Parcel #894333200006.

You are then to vote either upon permit approval or denial. For any approved permit the ordinances allow placement of those conditions which your Board feels:

- 1. Furthers the goals of Woodbury County's General Development Plan;**
- 2. Provides that the standards within Ordinance section 2.02-9.F are met; or**
- 3. Protects the health, safety and welfare of Woodbury County citizens.**

Mr. Mark Gorton gave an overview of the temporary batch plant which will cover of Hwy 20 from Minnesota Ave. to Merville, IA.

Mrs. Colling made a motion to close the public hearing. Mr. Rorholm seconded the motion; motion carried 4-0.

Discussion:

Mr. Rorholm made a motion to approve the CUP subject to:

- Applicant must obtain all federal, state, county and local permit(s)**

Mrs. Colling seconded to motion; motion carried 4-0.

The next agenda item is any citizen wishing to be heard.
There were no citizens wishing to be heard.

Mrs. Sadler made a motion to adjourn the meeting. Mrs. Colling seconded the motion; motion carried 4-0.

Meeting was adjourned at 7:50 PM. Next meeting will be 6 PM, July 11, 2016.